

Application No.: 10/584,098
Attorney Docket No.: 66090-004US0
First Applicant's Name: Mansour Samadpour
Application Filing Date: 30 October 2007
Office Action Dated: 06 October 2010
Date of Response: 06 April 2011
Examiner: Danielle B. Henkel

REMARKS

Claims 1-20 are pending and stand rejected.

Claims 1, 13, and 20 have been amended herein.

Claims 9 and 10 have been cancelled herein without prejudice.

Rejection under 35 U.S.C. § 102

The Examiner has rejected claims 1, 3-9, and 11-20 under 35 U.S.C. § 102(e), as allegedly being anticipated by Bradley (US 2004/0107782) for reasons as stated in the Office Action.

Applicant has amended independent claims 1 to recite:

“...a sterilizable, reversibly detachable integrated collection fluid delivery and collection fluid recovery member having a collection fluid delivery channel and a collection fluid recovery channel, and suitable to deliver collection fluid to a target surface, and contemporaneously recover the delivered fluid from the surface;

delivery means, in communication with both the reservoir and the fluid delivery channel of the integrated member, and operable to aseptically deliver collection fluid from the reservoir to the integrated member; and

vacuum means, in communication with both the sample collection chamber and the collection fluid recovery channel of the integrated member, and operable to direct collection fluid, delivered and recovered by the integrated member, to the sample collection chamber; and

sanitizing means for sanitizing the integrated member, said means comprising a heatable sanitizing fluid reservoir for receiving the integrated member and a sanitizer pump, and configured to provide for circulating sanitizing fluid in a closed loop between and through the heated sanitizing fluid reservoir and the collection fluid delivery channel and/or the collection fluid recovery channel of the integrated member to provide for sanitizing of the integrated member.”

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The amendments are fully supported by the originally-filed specification, and in particular at page 8, lines 26-29, Figures 1 and 2, and original claims 9 and 10 (the limitations of which have been incorporated into amended claim 1). No new matter has been added.

The Amendments serve to further clarify the distinguishing characteristics of Applicant's claimed subject matter, which has solved a long-standing problem of how to sterilize the integrated collection member between sample collection cycles by provision of a reversibly detachable integrated member that can be reversibly attached to a sterilization means, as presently claimed. No such reversibly detachable integrated member elements and high-throughput sterilization capability are provided in the prior art, including that of the asserted Bradley reference.

Applicant, therefore, respectfully requests withdrawal of this rejection.

Rejection under 35 U.S.C. § 103

The Examiner has rejected claims 2 and 10 under 35 U.S.C. § 103, as allegedly being unpatentable over Bradley (US 2004/0107782) for reasons as stated in the Office Action.

Specifically, the Examiner states that "with respect to claim 2, BRADLEY discloses the claimed invention except for the sampling tool member being reversibly detachable. It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the tool member detachable, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. *Nerwin v. Erlichmena*, 168 USPQ 177, 179.

b. With respect to claim 10, BRADLEY discloses a cleaning and washing means but does not explicitly disclose the sanitizing means to be a sanitation unit with a sanitizing reservoir; however, it would have been obvious to one of ordinary skill in the art to provide any known method for sanitizing sampling heads, such as a reservoir containing a sanitizing solution. Such solutions and reservoirs would have been well known to one of ordinary skill in the art at the time of the invention."

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Applicant's traversal:

Applicant respectfully traverses the rejection based on the presently recited claim amendments.

Applicant's use of "a sterilizable, reversibly detachable integrated collection fluid delivery and collection fluid recovery member" in operative combination with "sanitizing means for sanitizing the integrated member, said means comprising a heatable sanitizing fluid reservoir for receiving the integrated member and a sanitizer pump, and configured to provide for circulating sanitizing fluid in a closed loop between and through the heated sanitizing fluid reservoir and the collection fluid delivery channel and/or the collection fluid recovery channel of the integrated member to provide for sanitizing of the integrated member" is both novel and counterintuitive.

Specifically, Applicant's device configuration for separate closed-loop sterilization of the collection fluid delivery channel and/or the collection fluid recovery channel of the integrated member, providing for a high degree of adjustability/flexibility of the sterilization cycle(s), where, in practice, more sterilization time, and with a higher frequency, may be required for sterilization of the collection fluid recovery channel, depending on the microbe(s) being sampled and the concentration thereof. Additionally, Applicant's method and device would be *contraindicated* to one of skill in the art by virtue of the fact that there would be no motivation to flush sterilization fluid through the collection fluid recovery channel (which would in operation be contaminated by the prior sampling) into the same sterilization reservoir being used to provide sterilization fluid for flushing the collection fluid delivery channel (which normally only receives sterile collection fluid).

While, as urged by the Examiner, sanitizing units with a sanitizing reservoir may be known in the art, Applicant's configuration for separate closed-loop sterilization of the collection fluid delivery channel and/or the collection fluid recovery channel of the integrated member as discussed above, was not known, is not an obvious solution, and affords real-world advantages over the prior art by affording a simplistic cost-effective design, and providing for substantial flexibility in terms of different microbe(s) being sampled and the concentration thereof.

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Applicant's solution, therefore, provides for a cost-effective, novel and nonobvious solution to a long-standing problem in the art.

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Respectfully submitted,
Mansour Samadpour

/Barry L. Davison, Ph.D., J.D./
Barry L. Davison, Ph.D., J.D.
Attorney for Applicant
Registration No. 47,309

Davis Wright Tremaine LLP
1201 Third Avenue
Seattle, Washington 98101-3045
Telephone (206) 757-8023
Facsimile (206) 757-7023